

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

DALE H. SWICEGOOD,)	
)	
Plaintiff,)	
)	
v.)	No.: 3:07-CV-339
)	(VARLAN/SHIRLEY)
MICHAEL J. ASTRUE,)	
Commissioner of Social Security,)	
)	
Defendant.)	

ORDER

This Social Security appeal is before the Court on the Report and Recommendation filed by United States Magistrate Judge C. Clifford Shirley on July 28, 2008 [Doc. 16]. There have been no timely objections to the Report and Recommendation, and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Magistrate Judge Shirley found, *inter alia*, that the Administrative Law Judge erred because he did not properly consider all of the medical evidence in the record and he did not give his reasons for reaching his credibility determinations. Accordingly, Magistrate Judge Shirley recommended that plaintiff's motion for summary judgment [Doc. 12] be granted to the extent that it seeks remand under sentence four of 42 U.S.C. § 405(g) and that defendant Commissioner's motion for summary judgment [Doc. 14] be denied.

The Court has carefully reviewed this matter, including the underlying pleadings [Docs. 12, 13, 14, 15]. The Court is in agreement with Magistrate Judge Shirley's recommendation, which the Court adopts and incorporates into its ruling. Plaintiff's motion for summary judgment [Doc. 12] is **GRANTED** to the extent that it seeks remand under sentence four of 42 U.S.C. § 405(g) and defendant's motion for summary judgment [Doc. 14] is **DENIED**. The Court **ACCEPTS IN WHOLE** the Report and Recommendation [Doc. 16], and the Commissioner's decision is **REVERSED** and this case is hereby **REMANDED** for further evaluation consistent with the Court's analysis outlined in the Report and Recommendation and this Order.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE